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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Toll Free Service Access Codes) CC Docket No. 95-155
)

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COMMENTS OF LDDS WORLDCOM

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COMMENTS OF LDDS WORLDCOM

WorldCom, Inc., d/b/a LDDS WorldCom ("LDDS WorldCom"), hereby files its comments in response to the Notice of Proposed Rulemaking ("Notice"), FCC No. 95-419, released by the Commission in the above-referenced proceeding on October 5, 1995.

I. BACKGROUND AND SUMMARY

LDDS WorldCom has a substantial interest in the outcome of this proceeding. LDDS WorldCom acts as a major Responsible Organization ("RespOrg") to hundreds of 800 customers nationwide. In addition, LDDS WorldCom provides tariffed 800 services to tens of thousands of businesses and residences across the country. As both a RespOrg and an 800 service provider, LDDS WorldCom continues to be actively involved in all facets of the toll free services market. LDDS WorldCom also plans to play a major role in providing its customers with toll free service utilizing the new 888 access code.

In its Notice, the Commission discusses a wide range of issues related to the future adoption and implementation of toll free access codes. These issues encompass the more efficient use of toll free telephone numbers,¹ the mechanics of opening up new toll free access

¹ Notice at paras. 12-21.

codes,² warehousing and hoarding of toll free numbers,³ special treatment of so-called "vanity" numbers,⁴ and other miscellaneous administrative matters.⁵ LDDS WorldCom supports many of the policy initiatives proposed or suggested by the Commission, including: (1) requiring an affirmative request by subscribers prior to assignment of a toll free number; (2) reducing "lag times" in some stages of the number reservation and aging processes; (3) establishing an advance reservation period for 888 numbers; (4) prohibiting the warehousing and hoarding of toll free numbers; and (5) adopting a "circuit breaker" model to restrict RespOrgs from excessive number consumption rates. LDDS WorldCom also supports the adoption of a one-time "right of first refusal" policy for all 800 number users to replicate their numbers in the 888 access code, triggered by the payment of significant non-recurring and recurring replication fees. LDDS WorldCom does oppose certain other proposals advanced by the Commission, however, including requiring RespOrgs to make an escrow deposit for each reserved toll free number, mandating the use of PIN numbers, and establishing new dispute resolution or lottery procedures to reserve new codes. In the following comments, LDDS WorldCom will address the issues roughly in the order they were presented by the Commission in its Notice.

² Notice at paras. 22-31.

³ Notice at paras. 32-34.

⁴ Notice at paras. 35-47.

⁵ Notice at paras. 48-56.

II. LDDS WORLDCOM SUPPORTS THE ADOPTION OF REASONABLE POLICIES SEEKING TO MAKE A MORE EFFICIENT AND EQUITABLE USE OF TOLL FREE NUMBERS

A. Several New Policies Should Be Adopted To Encourage More Efficient Use of Scarce Toll Free Numbers

The Notice first asks whether RespOrgs should only assign a toll free number to a subscriber after receiving "an affirmative request" from that subscriber.⁶ LDDS WorldCom agrees that it would serve the needs of efficiency to require such a request because it forces customers to commit to receiving and using a toll free number before any assignment is actually made. LDDS proposes that such a subscriber request be made either verbally or in writing, and that a follow-up written report attesting to the verbal request be required within 60 days of number assignment. The Commission suggests requiring RespOrgs to retain records of such subscriber requests for two years, but LDDS WorldCom believes that a one year record retention requirement would be less burdensome on RespOrgs without sacrificing the ability of the FCC to audit such records if necessary.

The Notice also proposes to reduce some of the so-called "lag times" between various stages in the reservation and aging processes for toll free numbers in order to make more numbers available to customers more quickly. LDDS WorldCom generally supports such measures, as long as they do not impinge unnecessarily on the ability of RespOrgs, service providers, and customers to conduct their business in a reasonable manner. First, the FCC suggests reducing the amount of time which a toll free number can remain in reserved status

⁶ Notice at para. 13.

from 60 days to either 45 or 30 days.⁷ LDDS WorldCom supports a reduction in the time in reserve status to 45 days. Such a reduction can help foster greater efficiency in the system by compelling customers to act quickly to sign up for a toll free number. By the same token, however, a 30 day period likely would be too short a time for most customers to assemble their business plans and prepare to use the toll free number. Some providers of toll free service also may be constrained in their ability to provide the necessary equipment, software, and administrative support within 30 days of reserving a number. Thus, a 45 day reservation period appears to be a more reasonable compromise and should be adopted.

The Commission's second proposal is to reduce the amount of time a toll free number can be assigned, but not working, from 12 months to 4 months.⁸ LDDS WorldCom believes that an intermediate amount of time -- say, 6 or 8 months -- would be more appropriate to address the needs of those customers which have a long-term business need for a number but have no immediate plans to provide actual usage.

The Commission's proposals to reduce lag times in the "aging" process also deserve some consideration.⁹ LDDS WorldCom supports some reduction in the time from the 12 months currently allowed to keep a number in disconnect before returning to spare. However, LDDS WorldCom believes that allowing only 4 months before a disconnected number is reassigned, as the FCC proposes, could create significant problems for customers, including numerous wrong number errors and wrong number billings. As an alternative, a 6 or 8 months

⁷ Notice at para. 19.

⁸ Notice at para. 18.

⁹ Notice at para. 19.

period of time appears to be a reasonable compromise. Finally, LDDS WorldCom opposes reducing from 12 months to 4 months the time period in which a number can be left in suspended, not reactivated mode. A period of time of less than one year for suspensions could cause unnecessary harm to those customers who only use their toll free numbers on a seasonal basis.

LDDS strongly opposes two other related measures proposed by the FCC. First, the Notice suggests requiring RespOrgs to make a one-time deposit into escrow for each toll free number held in reserved status.¹⁰ The Commission claims that this escrow requirement would help ensure "a more efficient use of toll free numbers,"¹¹ but LDDS WorldCom believes that would not be the case. RespOrgs already pay 70 cents per number as a "customer record administration" fee for those numbers drawn from the Service Management System ("SMS") database, and each subscriber in turn pays a separate service charge to the 800 service provider. An escrow requirement on top of these fees would only increase the costs of business to all parties, including the end user customers, with no corresponding benefit. The Commission also cannot point to any actual cost basis for such a plan. In addition, any fee set high enough to act as a proper incentive to increase efficiency inevitably would harm smaller RespOrgs disproportionately because larger RespOrgs would be able to absorb the fee with less effort. As a result, the FCC would be intruding itself into the toll free services market by contributing to the competitive rift that already exists between larger and smaller RespOrgs. Finally, the administrative difficulties of such a plan also should not be discounted. As will be discussed

¹⁰ Notice at paras. 14-15.

¹¹ Notice at para. 14.

below, a more equitable means of addressing the Commission's efficiency concerns is to adopt a circuit breaker rule which ensures that all RespOrgs have an equivalent opportunity to secure the toll free numbers they need on behalf of their customers.

Second, the Commission asks whether it should "facilitate, encourage, or reward" the use of personal identification numbers ("PINs") by providers of toll free services in order to "permit more intensive use" of toll free numbers.¹² LDDS WorldCom strongly opposes such a new and complicated measure because it would unnecessarily penalize those companies which, for legitimate engineering and cost reasons, are unable to provide economical, secure PIN technology to its customers. LDDS WorldCom itself is not in the position to offer PINs to its customers at this time; moreover, any mandate to do so would require a time-intensive and expensive development and implementation process.¹³ LDDS WorldCom also has strong, unanswered concerns about the potential for significant toll fraud using PINs. In short, the Commission should not in any way require toll free service providers to offer PINs.

B. LDDS WorldCom Supports The Adoption Of Certain Revised Procedures To Govern The Implementation Of New Codes

In an effort to "avoid rapid, unanticipated depletion" of "scarce numbering resources," the Commission seeks comment on various aspects of the process of planning and deploying new toll free codes.¹⁴ First, the Commission asks whether the "first come, first served" approach used today should be retained, or whether some other reservation process

¹² Notice at para. 20.

¹³ For example, LDDS WorldCom estimates that it would cost at least \$600,000 in out-of-pocket expenses just to expand the memory in its switches so that they are capable of accepting minimal PIN-based software.

¹⁴ Notice at para. 22.

should be adopted. LDDS WorldCom believes that the current reservation policy remains the most equitable and simplest way of apportioning toll free numbers, and best matches the demand to the resource. A first come, first served approach also mirrors the common carrier obligations held by toll free service providers under Title II of the Communications Act. By the same token, suggestions in the Notice of a dispute resolution mechanism or lottery should be rejected as untenable.

In order to address the FCC's well-founded concerns about larger RespOrgs reserving mass quantities of toll free numbers at one time,¹⁵ LDDS WorldCom suggests the adoption of tighter controls on the supply side of the equation. For example, the Commission could require that a "circuit breaker" limitation be placed in the SMS database which effectively limits the number of toll free numbers that could be reserved at any one time (for example, a maximum of 2,000 numbers per service order). This would allow smaller RespOrgs to have a better chance of securing toll free codes that are in especially high demand.

LDDS WorldCom also supports the adoption of a reservation system for some specified time period before the general availability of the toll free code. The Ordering and Billing Forum's SMS/800 Number Administration Committee ("SNAC") has suggested a plan to accomplish this goal, which will be explained in detail in its comments in this proceeding. LDDS WorldCom endorses the elements contained in the SNAC early reservation plan.

For the implementation of toll free codes beyond 888, the FCC describes several proposals which would enable the industry in a timely fashion to identify, and then react to, the

¹⁵ Notice at para. 23.

eventual depletion of a particular code.¹⁶ LDDS strongly supports the general thrust of these proposals, and favors using a percentage usage trigger before deployment of the next toll free access code. Such a trigger should not be arbitrarily set ahead of time, but instead should be established at a predetermined time (say, at 50 percent of exhaust) based on both the percentage of numbers remaining in the pool and the prevailing usage growth rates. A six month implementation period also seems a reasonable measure to adopt. LDDS WorldCom also supports the Commission's proposed February 1997 deadline for all network switches to have the software needed to support all toll free codes reserved by the industry in January 1995. In addition, periodic reports from the database administrator to the FCC tracking toll free number usage would keep the FCC and industry apprised of current and projected number supplies, and should be required.

Finally, LDDS WorldCom seeks clarification that providers of toll free service will retain the ability to choose to interconnect with the local exchange carriers (LECs) at the access tandem level, as well as at the LEC end office. To the extent that the Commission's discussion of this interconnection issue may have cast some doubt unintentionally on this arrangement,¹⁷ LDDS urges the FCC to clarify that long distance carrier networks can still be linked at either LEC tandems or LEC end offices.¹⁸

The FCC also seeks comment on several other miscellaneous issues related to the

¹⁶ Notice at paras. 26-30.

¹⁷ See Notice at para. 30.

¹⁸ The LEC rates for interconnection also should be set to recognize the different costs imposed on IXCs, i.e., the rates for tandem-only interconnection should be lower than the rates for end office interconnection.

future administration of toll free codes. First, LDDS WorldCom supports the FCC's suggested use of a mechanism such as a circuit breaker for controlling the allocation of toll free numbers.¹⁹ In particular, such a mechanism could be used when the exhaust date of the current toll free code is drawing near. As mentioned above, LDDS WorldCom also proposes adopting a circuit breaker rule which would limit the number of toll free numbers that could be reserved by a RespOrg at any one time. However, the Commission's suggestion of a day-to-day circuit breaker rule, which would set restrictions on all SMS transactions by Resp Orgs, probably would intrude too much into the daily business operations of RespOrgs, and should not be adopted.

Second, LDDS WorldCom strongly supports the replacement of DSMI with a neutral third party to administer the toll free database.²⁰ LDDS WorldCom believes that a party not connected to Bellcore, the LECs, or other industry participants would be more responsive to industry-wide concerns. For example, currently it takes about two years for DSMI to complete a cycle to update software enhancements for the toll free database. Such delays in software development and implementation simply cannot be tolerated in a highly competitive, technology-driven industry such as the toll free service industry. LDDS WorldCom urges the Commission to mandate the use of a neutral party to replace DSMI in its present role.

Finally, LDDS WorldCom agrees with the FCC's tentative assessment that Directory Assistance for 800, 888, and subsequent toll free codes should be opened to competition, rather than left in the hands of AT&T as the monopoly provider.²¹ LDDS

¹⁹ Notice at para. 52.

²⁰ Notice at para. 49.

²¹ Notice at para. 48.

WorldCom suggests that the Commission direct that the "888-555-1212" number remain unassigned for now until the FCC has resolved the pending issue of how to assign toll free Directory Assistance.²²

C. LDDS WorldCom Does Not Oppose The Adoption Of A Measured Anti-Warehousing Rule

LDDS WorldCom agrees with the Commission that warehousing is a serious problem that must be rectified in the toll free service industry.²³ When warehousing takes place on a large scale, scarce toll free numbers cannot be distributed to those RespOrgs which have an immediate need to serve actual subscribers. LDDS WorldCom applauds the FCC's focus on this issue as a timely and well-deserved one.

LDDS WorldCom agrees generally with the FCC's definition of warehousing as describing "a Resp Org obtaining toll free numbers from the database without having an actual subscriber for whom those numbers are being reserved."²⁴ LDDS also agrees that the hoarding of numbers (i.e., a subscriber taking more numbers from a RespOrg than it intends to use) is a related serious problem that must be curtailed.²⁵ In addition, the Commission's definition of "warehousing" rightly does not look to whether the RespOrg's subscriber is actively using the number at certain usage levels over a specified period of time; as long as there is an actual

²² See Notice at para. 48 n.91.

²³ Notice at paras. 32-34.

²⁴ Notice at para. 32 n.69.

²⁵ The Commission should clarify, however, that subscribers as well as Resp Orgs can be found guilty of warehousing or hoarding numbers. Of course, if the subscriber is not a common carrier, the Commission's Title II-based rules and enforcement powers likely would not reach it. Nonetheless, the point remains that the specific intent to warehouse or hoard a toll free number is not uniquely limited to Resp Orgs.

customer in place assigned to the number, the Commission's inquiry should end there.

LDDS WorldCom also agrees with the Commission that "warehousing of toll free numbers by communications service providers subject to Title II of the Communications Act is an unreasonable practice, and, thus, inconsistent with the public interest."²⁶ LDDS WorldCom also would not object to the imposition of fines to penalize those common carriers found guilty of warehousing numbers, as well as equivalent measures taken against those subscribers which are found to have hoarded toll free numbers. However, the suggestion of decertifying RespOrgs appears to us extreme and unwarranted, especially given the lack of any evidence of massive warehousing by RespOrgs at this time.

LDDS WorldCom also believes that the Commission should refrain from utilizing anything more than limited oversight powers in this area. The FCC should not place itself in the position of policing every toll free number to assure that it is not being warehoused or hoarded. For example, many groups of subscribers to toll free service, such as paging companies, may engage in little usage of a particular number over the span of several weeks or even several months. The Commission should not be concerned with whether the number in question is being used to a certain degree, but only with whether the number has been assigned to an actual subscriber. Any focus on usage by the FCC would put the RespOrgs in the untenable position of potentially discriminating unreasonably against low-usage companies, in violation of the common carrier obligations imposed by the Communications Act.²⁷

²⁶ Notice at para. 32.

²⁷ To the extent that the Commission believes that actual usage is one factor that should be considered when determining whether warehousing or hoarding is taking place, toll free service providers such as LDDS WorldCom are in the best position to successfully police

Two of the measures proposed by the FCC (a lower cap on reserved numbers and a self-certification requirement for RespOrgs for reserve and working numbers),²⁸ combined with the Commission's ability to fine violators, should prove sufficient to deter most, if not all, potential warehousing violations. LDDS WorldCom believes that the Commission should adopt a permanent cap on reserved numbers higher than the current 3 percent limit that has been imposed due to the imminent exhaust of 800 numbers, but lower than the 15 percent cap that otherwise would apply. As a compromise, LDDS WorldCom recommends a cap of 10 percent on reserved numbers. In addition, LDDS WorldCom urges the Commission to allow RespOrgs to self-certify on a quarterly or yearly basis, rather than monthly, to limit the administrative and information-gathering burden on RespOrgs.

III. LDDS WORLDCOM SUPPORTS A ONE-TIME RIGHT OF FIRST REFUSAL POLICY FOR REPLICATION OF ALL 800 NUMBERS, CONDITIONED ON THE REGULAR PAYMENTS OF A SIGNIFICANT REPLICATION FEE

LDDS WorldCom recognizes that the issue of whether to allow 800 service subscribers to replicate their 800 vanity numbers in the 888 code, and beyond, is a vexing one that is not susceptible to easy solution. Nonetheless, LDDS WorldCom applauds the Commission for devising several proposals to attempt to address the issue.

their customers -- without extensive FCC oversight. For example, LDDS WorldCom's interstate tariff currently requires that each 800 number assigned to a customer must be placed in "actual and substantial use," or else LDDS WorldCom retains the authority to recover that number from the customer within 60 days of service activation. WorldCom, Inc. Tariff F.C.C. No. 2, Section C.3.3.2, Original Page No. 37 (effective date August 16, 1995). Embodying such usage requirements in binding tariff language is one reasonable way of dealing with the perceived problem of low usage by customers.

²⁸ Notice at paras. 33-34.

The Notice defines a vanity number as "a telephone number for which the letters associated with the number's digits on a telephone handset spell a name or word of value to the number holder."²⁹ LDDS WorldCom agrees that the definition should focus on the value of a particular toll free telephone number to the number holder, but we believe that the definition should be broadened to recognize that the number digits themselves may be of value to a subscriber, even if they are not used to spell any word or phrase (i.e., 1-800-123-4567). The key point is that the subscriber should define the ultimate value of its number -- not the FCC, the RespOrg, or anyone else.

LDDS WorldCom also agrees with the FCC that it is impossible at this time to determine with any precision the number of 800 subscribers which would want corresponding 888 numbers. The SNAC currently is studying the problem and may have pertinent data to submit with its comments in this proceeding. LDDS WorldCom also is surveying its own 800 customers and will report back to the FCC via the ex parte process should we garner an accurate reading of our subscribers' desires.

Given the competing interests of customer equity versus resource efficiency, unfortunately there is no one clearly superior choice available to the FCC to govern the treatment of 800 vanity numbers in the 888 code environment. However, given the limited options available, LDDS WorldCom suggests that the Commission adopt a fee-driven right of first refusal applicable to all 800 number subscribers. Under such a scheme, a holder of a particular 800 number would have the right to receive the equivalent 888 number. However, certain necessary conditions on such a plan should also be adopted.

²⁹ Notice at para. 35.

First, all 800 subscribers should receive the opportunity to duplicate their 800 numbers, not just those subscribers with vanity numbers that spell out words or phrases. As discussed above, it should be left to the individual 800 subscriber to determine whether its particular 800 number has such value that it must also acquire the corresponding 888 number.

Second, the right of first refusal should not come free. In order for subscribers to have the proper incentive to duplicate a number where it makes the most economic sense, the Commission should impose a one-time fee of \$1,000, along with a recurring fee of at least \$200 per month, on every 800 number that is replicated in the 888 code. These fees would help send the correct, constantly reinforced economic signals to the subscriber to only replicate an 800 number where its business value is substantial. In essence, the 800 business market itself will decide, and impose its own cost efficiencies on the subscribers. The fees also would help buttress the notion that a toll free number is a public resource, not a property interest, which can only be leased, not bought or sold. The money derived from the non-recurring and recurring replication fees could be collected by the RespOrgs and turned over to a neutral third party administrator for appropriate uses, such as ongoing consumer education campaigns or SMS database service enhancements.

Third, the 800 subscriber should be allowed to choose replication either to (1) reserve and utilize the number itself, or (2) have the number placed in an "unused" status so that no competitor could acquire it. Regardless of the ultimate disposition of the replicated 888 number, however, the subscriber must still pay all applicable replication fees.

Fourth, the 800 subscribers should get only one chance up-front to replicate their 800 numbers. Once a specified period of time has elapsed prior to the March 1, 1996

implementation date (say, 45 days), all non-replicated 888 numbers should be entered back into the DSMI pool for general distribution.

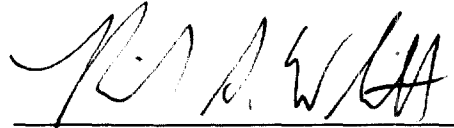
Finally, the fee-based right of first refusal plan should be used only for 888 numbers. With the advent of 877 access codes and beyond, subscribers should no longer have the automatic right of replication, which would only tie up scarce numbering resources in endless series of replications.

LDDS WorldCom does not believe that the other vanity number proposals suggested by the FCC have much merit. In particular, the industrial classification scheme could be very difficult to administer and could involve the FCC in numerous disputes between parties over proper classifications. LDDS WorldCom believes that the fee-based right of first refusal plan offers the best balancing of competing interests, and should be adopted by the Commission.

IV. CONCLUSION

For the reasons articulated above, the FCC should adopt the proposals recommended by LDDS WorldCom from the options proposed by the Commission in its Notice of Proposed Rulemaking in this proceeding.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'R. S. Whitt', is written over a horizontal line.

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